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March 19, 2003

Ms. Elaine Zielinski  
Arizona State Director  
Department of the Interior  
222 North Central Avenue  
Phoenix, AZ 85004

Dear Ms. Zielinski:

I wish to bring to your attention a matter concerning Scott and Roy Dutton who has encountered a problem with the Bureau of Land Management.

Because the situation is under your jurisdiction, I am respectfully referring this matter to you for consideration. I feel that this issue would be better addressed by you and request that you respond directly to Scott and Roy Dutton.

Thank you.

Sincerely,



John McCain  
United States Senator

JM/xnm  
Enclosure

Bureau of Land Management  
Arizona State Office  
Phoenix, Arizona

MAR 25 2003

910	_____	930	_____
EEO	_____	950	_____
910B	_____	Field Office	_____
911	_____	Central Files	_____
912	_____	FOIA	<i>JK 3-25-03</i>
917	_____	Action	_____

# DUNTON & DUNTON

F. Roy Dunton and Scott Dunton

3 2003

February 28<sup>th</sup>, 2003

Senator John McCain  
2400 E AZ Biltmore CR#1150  
Phoenix, AZ 85016

119 E Andy Devine Ave.  
Kingman, AZ 86401  
Office (928)753-1314  
Fax (928)718-0076

RE: Solicitation NC-L-02-0235  
BLM Kingman, Arizona

Dear Senator McCain,

Are BLM employees above the law?

No oversight committee?

Denver, Colorado BLM leasing officers have lied, distorted facts, and favored their friends to make sure they were awarded the bids.

The honest leasing officer who was truthful had her leasing career ruined by these people whom the BLM has since retired or put on extended leave before their upcoming retirement to cover their tracks.

Attached you will find facts substantiated by a court reporter transcription of taped conversations, email documentation, correspondence and Congressman Bob Stumps files.

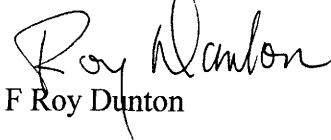
The GSA leasing buildings was first class! BLM leasing, solicitations and bidding is a disaster, lies, arrogance, favoritism to their friends in Colorado, unfair acceptance and illegal solicitation ads and locations, retiring three lease officers to cover their tracks, and destroying their own leasing officer's career for telling the truth.

Please reply.

Sincerely



Scott Dunton

  
F Roy Dunton

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**(928)718-6606**  
**Fax (928)718-0076**

# Fax

MAR 20 2003

**To:** SEN JOHN MCCAIN

**From:** Scott & Roy Dunton

**Fax:** 602-952-8702

**Pages:** 19

**Phone:** 202-224-2035

**Date:** March 20<sup>th</sup> 2003

**Re:** Kingman BLM New Building

**Att:** Nick.

**Comments:** Attached you will find four recent news articles from the Kingman Daily miner and letters from Kingman Real Estate Brokers verifying very questionable or illegal action by the BLM office in Denver with assistance of the Phoenix and Kingman BLM office personnel.

We respectfully request your assistance in stopping this building contract, calling for new solicitations and site selections. The contract was awarded on the last days of December to SDA , (friends of the Denver leasing officer Ex. 6)

Ex. 6 who is now retired has been hired on a contract basis. It is also reported that Ex. 6 has returned after medical leave and status quo returns to the Denver leasing office to complete this contract.

Congressman Stump requests for a complete investigation was never accomplished.

Lies, favoring personnel and friends at the expense of all other bidders. Illegal ads and not following the proper procedures is rampant in this project.

Please work through Gale Norton, the Department of Interior and Kathleen Clarke, the BLM Director.

Thank you



cc: Senator Kyl  
cc: Senator McCain  
cc: Congressman Franks  
cc: Congressman JD Hayworth  
cc: Congressman Rick RENzi  
cc: Kathleen Clarke  
cc: Gale Norton  
cc: Pat McMahon

3-16-03

## Building Brouhaha

# New Bureau of Land Management building comes at high price

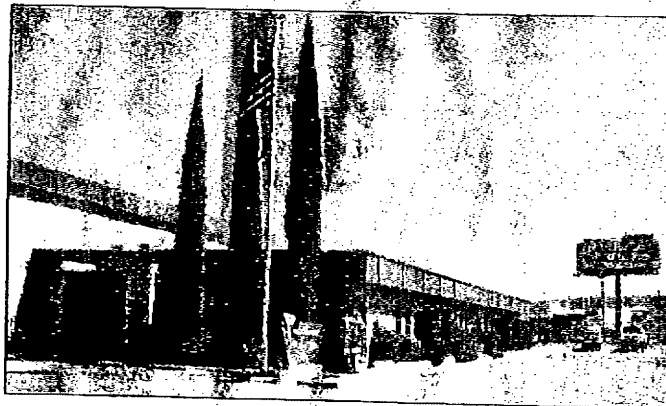
*Editor's Note: This is the first of a four-part series about the selection of the site for the new Bureau of Land Management building in Kingman.*

**By Marvin Robertson**  
Miner Staff Writer

A new Bureau of Land Management building on Hualapai Mountain Road will cost taxpayers nearly \$4 million extra rent.

The current office at 2475 Beverly Ave. has been leased from Kingman businessmen Roy and Scott Duntun for more than 20 years for \$17,180 a month.

SDA of Colorado won the bid for construction of a new facility



Miner Photo/PL TODD STENHOUSE

According to BLM officials, the hard-to-find location of the agency's current building is one of the reasons for a future move.

at a cost to taxpayers of \$33,505 doubled lease payment will result per month rent for 20 years. The in an additional \$3.9 million over

20 years.

Wrangling among staff at BLM offices in Kingman, Phoenix and Denver added costs and delayed the project.

Also, an adversarial relationship developed between the Duntuns and the BLM as the agency considered whether to build a new Kingman office, remodel the current office on Beverly Avenue or simply extend the lease on the facility.

And, a contracting officer with the BLM business office in Denver has filed a whistleblowing lawsuit against the agency after she questioned BLM officers about the Kingman bidding process.

The process also was questioned by several Kingman real estate agents who worked with clients to identify sites for construction and lease of a BLM facility.

The Kingman City Council was frustrated by the BLM's need to trigger three general plan changes and three zoning changes along Hualapai Mountain Road for one building. The city is left with new commercial zoning that may or may not have occurred without the BLM requirements, in an area that had been zoned residential.

The new site finally selected is along the south side of Hualapai

See BLM, Page 2A

3-16-03

**BLM**

From Page 1A

Mountain Road opposite the Washington Street intersection.

The bid was the highest submitted and the only bid remaining after a second and lower bid by the Duntons was disqualified. BLM looked at 35 Kingman properties during the market survey but all but two potential builders dropped out of the process.

It began in 1996 because the Beverly Avenue building was deemed too large.

"The lease on this office was extended for five years in 1996 when I came to the Kingman Field Office," BLM Kingman manager John Christensen said. "This building was too large but we were not high enough on the priority list for new construction at that time."

The BLM needed another lease extension with the Duntons when it became obvious that internal BLM disagreements would delay a new structure past 2001, when the lease extension was up.

The negotiation for the extension caused still more disagreement and added more taxpayer costs.

John Cunningham, a contracting officer in the BLM Denver Business Office, was the third realty specialist to negotiate an extension acceptable to Kingman and Arizona BLM officials.

"We are the customer and we wanted less than the two year extension," Arizona BLM official Lanna O'Neal said.

O'Neal is Arizona BLM deputy director for business.

She added, "We did what is in our best interest."

What the BLM did was negotiate a 16-month lease extension that guaranteed the Duntons the same amount of money they would have got for a 24-month lease. The payment of \$29,900 a month would continue six more months if a new building were not completed sooner.

"You will get the same amount of money in 16 months instead of two years," Cunningham told Scott Dunton in a phone conversation that the Miner obtained a transcript of. "If the project is delayed after ... past 16 months...every month after that is another 29.9."

Ed Dettman, then manager of the Denver office, and Gwen Burton, the original Kingman lease negotiator, said Kingman BLM officials always wanted a new building and that Hualapai Mountain Road seemed to be their preferred location.

"... The local office seemed to have, what shall I say, a little bent in terms of they wanted new construction and they didn't want it to be here, didn't want it here, and so on," Dettman said in a recorded telephone conversation with Dunton. "...I was the guy that finally had to make the decision that we were going to the city limits, period."

Christensen was responsible for limiting the original specifications to the area west of Harrison Street as confirmed by internal BLM memos.

Internal BLM e-mails indicate that Christensen was disciplined

by BLM for efforts to assure a new building be constructed on Hualapai Mountain Road.

Three congressional offices, BLM and the Office of Inspector General have investigated various parts of the bidding process. The inspector general's office said the lease process was legal, but Burton said she was never contacted and the bid award occurred after the investigation.

Norm Logan took over the project from Burton in what he terms a "new project." Logan was out for medical leave when Cunningham filled in. Logan is back in Denver completing the project.

Burton has filed an Equal Employment Opportunity Commission complaint against the BLM for issues related to her removal from the Kingman project because of her concerns about the bidding process legality. She is on medical leave because of stress.

The Duntons have had several requests for bid review turned down by BLM officials in Denver and Washington. They have hired a Washington, D.C., law firm to file a lawsuit challenging the process.

The Duntons allege BLM has not given them fair and open notification during the process and wrote the original specifications as to eliminate their current building. Burton was the first BLM official to term the original solicitation area as illegal. She contends that BLM officials were prejudiced toward the Duntons after that.

be several more days before they are able to identify the disease. However, they said several of its features suggest it is caused by a virus which can often be difficult to pinpoint quickly.

"Certainly influenza is on the minds of many people," said Dr. David Heymann, communicable diseases chief for the World Health Organization.

Lab tests have ruled out some varieties of flu and some viruses that cause hemorrhagic fever. However, many other possibilities remain, Heymann said.

Those include "a new strain of influenza" or such exotic diseases as the closely related Hendra and Nipah viruses — both newly recognized, causing flu-like symptoms and capable of being spread from animals to people.

## INSIDE



Kingman tennis girls lose 7-2 to Deer Valley

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## Building Brouhaha

# Duntons say site selection unfair

**EDITOR'S NOTE:** This is the second of a four-part series about the selection of the site for the new Bureau of Land Management Kingman office.

**By Marvin Robertson**  
Miner Staff Writer

An employee was the first to tell Roy and Scott Dunton the Bureau of Land Management would build new offices in Kingman.

"Our maintenance man was at our BLM building in September 2000 and saw a group of men discussing a new building with the employees," Scott Dunton said. "Later, two Realtors told me someone else was going to build a new BLM office."

Roy and Scott Dunton won a bid in 1975 to construct the facility at 2375 Beverly Ave.. The BLM moved in during 1977 and still occupies the building.

An official request for a new office came in October 2000 from Gwen Burton, contracting officer at the BLM Business Center in Denver. That office handles all leases for the BLM and Burton was assigned most Arizona projects.

"The delineated area went down Harrison Street and excluded our building," Dunton said. "I called Gwen and protested. It was obvious the Kingman office did not want us to bid our existing building."

Scott and Roy Dunton sent letters to 3<sup>rd</sup> District U.S. Rep. Bob Stump, who intervened, and the Interior Department's Office of the Inspector General reviewed site restrictions. The project was cancelled and a new one begun with the entire city limits included.

"John Christensen, Kingman manager, continued to fight the location," Dunton said. "Burton told me what had been done was illegal."

Christensen, during a recent interview, said he had no intention to cut the Duntons out of the process.



Miner file photo

Local businessmen Scott, left, and Roy Dunton claim the process used to select a new site for the Bureau of Land Management office excluded them.

The Duntons said they had difficult negotiations with the BLM over extensions of the Beverly Avenue lease. The BLM had an option for a five-year extension. Burton offered a three-year firm extension at about the \$17,180 monthly rent in force at the time.

Scott Dunton claims the Kingman and Arizona offices vetoed the lease.

Lanna O'Neal, Arizona's BLM deputy director for business, said Denver BLM officials negotiated the lease, not those in Kingman or Phoenix.

"We wanted a shorter lease and we are the customer," she said.

Burton was removed from the project and followed by Norm Logan and John Cunningham.

Cunningham solved the lease extension conflict by giving the Duntons a 24-month lease, firm for 16 months at \$29,900 with an option for six more months.

"They bought us off," Roy Dunton said.

When the new office complex was again advertised for bid in 2001, the Duntons identified six properties for the BLM market survey of 35 sites.

Logan eliminated the Beverly Avenue complex and any possibility of remodeling or building new at that site. He did approve seven sites, including two on Hualapai Mountain Road that the Duntons submitted.

They submitted a proposal for a site July 18, 2002, and heard nothing until Nov. 27, when a letter sent to Brian Driscoll, a friend of Scott Dunton, was faxed to Kingman.

The letter said final and best-revised bids were due the next day. The Duntons had received nothing directly from the BLM. The agency had used an incorrect zip code for Dunton. The mailing arrived Dec. 24.

Protest packages were sent out Dec. 24 and were shifted around several BLM offices with no response satisfactory to the Duntons.

See BLM, Page 2A

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## Notice

### E. Myers

Elizabeth Myers, 83, of  
Saturday March 15,  
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was born April 1,  
ord, Conn.

es are planned. Her  
ng cremated.



Miner Photo/TERRY ORGAN

Heather McClintock, left, does some Pi calculations between bites of pie she and classmate Shawna Case are enjoying Friday in one of Sally Dulmage's math classes at Kingman High School South. Case is dropping a coin at the same time inside a set of squares to get a ratio of Pi, the irrational number of 3.1415926535897932. Students also measured the diameter and circumference of a plate to better get an idea where Pi originated. Pi Day fell on March 14, which may be designated as 3-14.

3-17-03  
Miner  
Kingman  
Daily  
Miner

## BLM

From Page 1

BLM disqualified the Duntons' bid because a \$100 item was left out and accepted the only remaining offer - from SDA of Colorado.

The outcome was a new building on Hualapai Mountain Road that cost taxpayers \$865,000 more than the Dunton bid for total lease payments. The new facility will cost taxpayers nearly \$4 million more rent than the current facility over 20 years.

"It was obvious to us that the BLM never intended to give us a fair shot," Scott Dunton said. "We filed suit in January to get an open process that would give all bidders a fair shot."

Logan insists the process was open and fair and all bidders had an equal opportunity.

SDA obtained an option on the

winning property one hour before the deadline, Dunton said. The property is still not rezoned although approved for commercial use by the Kingman City Council.

SDA officials told the Kingman Planning and Zoning Commission they would get the contract before the bidding process was completed.

O'Neal said the new office is scheduled for completion in September.

All other potential bidders thought the site had to be properly zoned when submitted.

The Duntons have filed a lawsuit in Washington.

Burton has filed a whistleblowing suit against the BLM, claiming discrimination.

The former Arizona BLM state director has disciplined Christensen.

The state director, the Denver BLM supervisor of the contracting officers, and one contracting officer have retired. Logan recently returned from extended medical leave and expects to complete the Kingman project.

Second District Rep. Trent Franks continues to investigate the matter.

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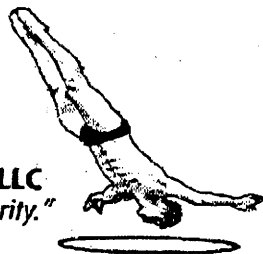
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### Building Brouhaha

## BLM worker files complaint over Kingman office project

*EDITOR'S NOTE: This is the final story in a four-part series about the selection of the site for the new Bureau of Land Management Kingman office.*

**By Marvin Robertson**  
*Miner Staff Writer*

The original contracting officer for the new Kingman field office has sued the Bureau of Land Management, claiming retribution against her as a "whistleblower."

Owen Burton, the contracting officer once assigned to Arizona projects by the BLM Denver Business Office filed a complaint with the federal Equal Employment Opportunity Office following her removal from the Kingman project.

"Kingman people were not fol-

lowing the law," Burton said during a telephone interview with the Miner.

She said it was illegal for the BLM to delineate an area for bids for a building site and omit the current building. Her supervisor, Ed Dettman, agreed and the project was readvertised to include all of Kingman for building sites.

"They still rejected the current site (2475 Beverly Ave.)," Burton said. "Including the building site in the market survey was almost a courtesy."

Burton was removed from the project after making her stand, and Norm Logan continued the project and did the market survey.

Logan insists the decision was his  
**See BLM, Page 2**



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## BLM

alone and made with objectivity.

"(Burton's) project was cancelled," Logan said in a telephone interview with the Miner. "Burton had nothing to do with this project or the lease extension."

Burton said BLM management has attacked her for doing the right thing and insisting on following the law.

"They attacked me and have ruined my career," Burton said.

Mark Nelson, the BLM leasing branch chief in Denver, came into the process late but defended all activities as legal and proper. In a Feb. 4, 2003, interview he said he had been in Denver for six weeks.

"There were mitigating circumstances (for taking Burton off the project)," Nelson said.

He said she had a lot of stress in the job. Burton has said she was on medical leave because of the stress.

Nelson and Dave Cunningham, the third contracting officer to work

on the Kingman project, refused to discuss Burton's reasons for leaving, saying that they "could not read her mind."

Burton alleges that actions and activities by the Denver contracting officers raised concerns about treatment of Kingman businessmen Scott and Roy Dunton. The Duntons own the BLM's Beverly Avenue building and unsuccessfully sought the contract to build a new BLM facility.

"The fact that the Duntons continually raised valid concerns regarding the actions, management of the project and visible violations led to very negative discussions in Denver and ill regard towards them," Burton wrote in information related to the Duntons and EEOC investigators.

Burton calls the process a "miscarriage of justice" that has affected her health and career.

She contends that taxpayers' trust had been compromised and the abuse

of power has gone unpunished.

The result is a contract for a new building for the Kingman BLM that has been awarded to SDA of Colorado for a site on Hualapai Mountain Road. The lease will cost taxpayers nearly \$4 million more rent during a 20-year lease than the current building on Beverly Avenue. The BLM had eliminated all but one of the 35 properties originally considered. The Duntons were the only other final bidder with a bid for \$800,000 less than SDA that was disqualified.

The Kingman City Council rezoned several parcels commercial along Hualapai Mountain Road prior to adoption of the new general plan and expressed frustration with the BLM process.

Many of the Denver staff members involved have retired or moved. Arizona State BLM Director Denise Meridith retired and Kingman field office manager John Christensen was disciplined.

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Tuesday, March 18, 2003

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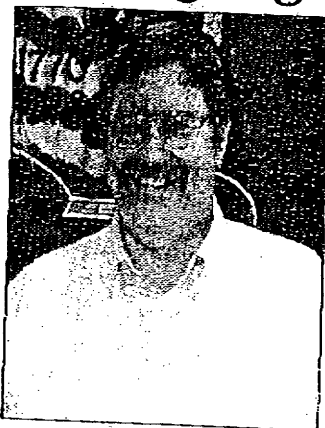
Building Brouhaha**Bureaucratic wrangling delays progress on new BLM building**

*Editor's Note: This is the third of a four-part series about the selection of the site for the new Bureau of Land Management Kingman office.*

**By Marvin Robertson**  
Miner Staff Writer

Problems with the bidding for a Bureau of Land Management Kingman field office surfaced in 2000 from the time specifications were written.

John Christensen, the BLM's Kingman manager, wrote the specifications for a facility within city limits but west of Harrison Street. That eliminated the current office complex at 2475 Beverly Ave. owned by Roy and Scott Dunton



JOHN CHRISTENSEN

and any attempt to renovate those offices.

By the time a bid for a new office was awarded in December 2002,

the BLM agreed to pay nearly \$4 million more rent during a 20-year lease, compared with a 20-year Beverly Avenue lease. As much as \$292,000 of the increased rent will be paid for a short-term extension of the Beverly Avenue lease while construction is under way at a site along the south side of Hualapai Mountain Road opposite the Washington Street intersection.

Dave Cunningham, the third BLM Denver contracting officer to offer the Duntons a lease extension for Beverly Avenue, agreed to a 24-month lease thinking he had a deal.

The Arizona BLM office blocked the lease because it was for more than 16 months and may delay the

new office. Cunningham also was the third contracting officer from the Denver BLM office to reach a deal with the Duntons that was stopped by state and local BLM officials.

Cunningham agreed to an increase of rent by \$12,000 per month to get a 16-month firm lease extension with 24 months likely at the \$29,900 rate. The monthly lease had been at \$17,180.

The BLM National Business Center in Denver is responsible for negotiating leases and bidding new buildings for all BLM facilities.

Gwen Burton was the contracting officer for projects in Arizona in 2000, when the process began. She challenged the limitation of the

Kingman site to a portion of the city that would leave out the Beverly Avenue facility as documented in internal BLM memos.

Ed Detman, Burton's supervisor in Denver, according to internal memos sent to Burton, agreed the Kingman project should be cancelled and specifications rewritten to include all of Kingman.

Bob Kritzen, Lonna O'Neal and Frank Balaga in the Phoenix BLM office claimed they had not discussed cancellation or delay with Burton.

Denise Merideth, now retired, was the BLM Arizona state director when the Washington BLM office was contacted to get the building

See BLM, Page 3

Kingman Daily Miner - www.kingmandailyminer.com

Tuesday, March 18, 2003

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## BLM

project back on the table.

Burton said Balaga confirmed with her that "after they told John Christensen about the cancellation, John hit the roof and was very upset."

Burton eventually filed a whistleblowing claim against the BLM, alleging she was removed from the project because she questioned the bidding process. Burton confirmed her EEOC complaint by phone and letter. She said she is on medical leave because of stress and has asked members of Congress for help.

Burton and the Duntons turned to Congress for help. In January 2001, Scott Stewart, a staffer for Rep. Bob Stump, wrote in a memo to Stump: "We are very concerned that BLM continues to withhold information from you (Rep. Stump) regarding its handling of a lease for office space in Kingman. It appears that the Kingman BLM Field Manager may be conspiring with officials in both the BLM (Arizona) State Office and in Washington to circumvent procurement policies and construct a new office building."

Norm Logan replaced Burton as contracting officer for the Kingman project and advertised it to include all of the city.

Logan assured the Duntons of "fairness" in the process without regard to cost or prejudice and said the old building would be included. Then Logan conducted a market survey of 35 properties offered for a new building.

Logan deemed the Beverly Avenue property unacceptable, calling the building "too small."

He said it had been deemed too large when the original bidding process began. He said residences were located behind the property but was not specific why that was a problem. The residences have been behind the current building for many years. Logan also cited traffic at the Stockton Hill Road-Beverly Avenue intersection as difficult.

The market survey excluded the Duntons' site and approved several sites along Hualapai Mountain Road. Logan insists the survey was proper and objective.

Dettman had told Dunton in a

recorded telephone conversation with Dunton that "...The local office seemed to have, what shall I say, a little bent in terms of they wanted new construction."

Dunton made transcripts of phone calls available to the Miner that (Dunton) recorded with the knowledge of BLM

Dettman told Dunton that Hualapai Mountain Road had always seemed to be the preferred location of the Kingman BLM officials.

Several Kingman real estate agents who found sites for clients have said Hualapai Mountain Road was always the preferred location.

Christensen said a Hualapai Mountain Road site would be easier for the public to find so the BLM could better serve its customers.

One agent also wrote in a letter to Dunton that Logan told him he wanted neither a site along Hualapai

.....From Page 1

Mountain Road nor any site that was not already properly zoned.

The contract for building and leasing a BLM complex was awarded to SDA of Colorado in December 2002.

Cunningham is retired and working on contract with the BLM in Denver, and Logan just returned from a long medical leave. Logan expects to complete the project.

Marcus Nielsen has replaced Dettman in Denver and Merideth is retired and working in Phoenix.

The process has been investigated by two congressmen and the Office of the Inspector General without any change.

The Duntons have filed several protests and are suing the BLM.

In September, the Kingman BLM Field Office should be completed on Hualapai Mountain Road and occupied.

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# Marvin's Window *KINGMAN DAILY MINER 3 2003*

## Frustration: Means 'working with the BLM'

I looked out my window across Kingman and admired the mountains and the sunny, blue skies.

Many people come to see the wide-open spaces and admire the mountains on the way to the Grand Canyon, Hoover Dam and Las Vegas.

Many more drive through Kingman and the surrounding areas, coming west or heading east.

I wondered what the area will look like in another 50 years.

My thoughts turned to the fact that 80 percent of the land in Mohave County is publicly owned with the Bureau of Land Management responsible for most.

My head is still spinning from the run-around I got from BLM personnel in Denver, Phoenix and Kingman while trying to get information about the solicitation process or a new BLM office in Kingman.

When I called the Denver BLM Business Center to get in touch with the realty specialist currently responsible for the new building, I got Norm Logan's answering machine.

Finally, I reached Dave Cunningham, the third Denver person to work on the project. He gave me a little bit of information and told me Logan was in the office and referred me to Phoenix. I called Logan immediately and got that answering machine. He did not call me



**Marvin  
Robertson**

back in spite of me leaving several messages.

I did get Mark Nielsen, the supervisor, after several attempts. We had talked for about 20 minutes before I got a direct answer on any question.

I told him I recognized when I was being stonewalled. He said that I wasn't asking questions.

I asked him how long he had been on the job in Denver. I got my first direct answer, six weeks, and we went back to the old game. He said I should be talking to Phoenix.

I had called the Arizona state office in Phoenix and asked to speak to the state director. I got a call back from Debra Stevens, director of external communications. She said the director was gone to Maine or Washington — I do not remember exactly which — and I would be referred to her anyway.

Then she said I would have to get information from Denver because Phoenix had nothing to do with lease negotiations.

I told her Denver referred me to

Phoenix.

I called the Kingman office and made an appointment with local manager John Christensen. He got permission from Phoenix to talk with me and gave me just a little information.

He said he had the Office of the Inspector General report in his hand but could not give it to me.

I called Phoenix. Stevens gave me an 800 number for the OIG in DC. I said "no way."

She told me to hang on, then she came back with a web site for the OIG and directions to find the report.

It was on the Internet as a public document but the BLM could not give it to me because "they needed permission from the OIG."

I had tons of information in my hands from other sources before making the first phone call. I told the BLM that I was attempting to let them defend themselves. Eventually, Stevens and Logan figured that out and talked to me.

The BLM trades our land, checks mineral leases, grazing leases, does all kinds of environmental work and protects some forests in the Hualapai.

A BLM staff person is assigned full time to every state road project in the area to check plant and animal needs and to secure the environment.

They are involved in environmental assessments, including water and air quality, for all projects like the Wickieup power station and the Red Lake gas project.

I wonder what goes on when some developer wants to trade a few thousand acres of our land for theirs? My trust level has dropped so much after investigating the process of building new offices in Kingman that I am full of concerns.

I have written several stories with BLM personnel about trails, parks and the environment. I got great cooperation when I was getting their story out to the public.

The story of the new Kingman office began as a routine assignment. The stonewalling and finger pointing by BLM staff in Kingman, Phoenix and Denver left me frustrated.

If I owned the land they manage instead of just being part of the "public ownership," I would fire them all and find someone more responsive.

The new Kingman BLM office will cost taxpayers an extra \$4 million. More important to me is what the process reveals about the bureaucrats managing millions of acres of Western lands.

I am frustrated.

*Marvin Robertson is the Miner's beat/business reporter.*

ATTN: VIK -

FRANK

RAY DUNTON

**Tuesday**  
January 7, 2003

WEDNESDAY'S  
FORECAST



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## Council may ask voters for city property

Proposed tax will be the topic of a special Kingman City Council meeting

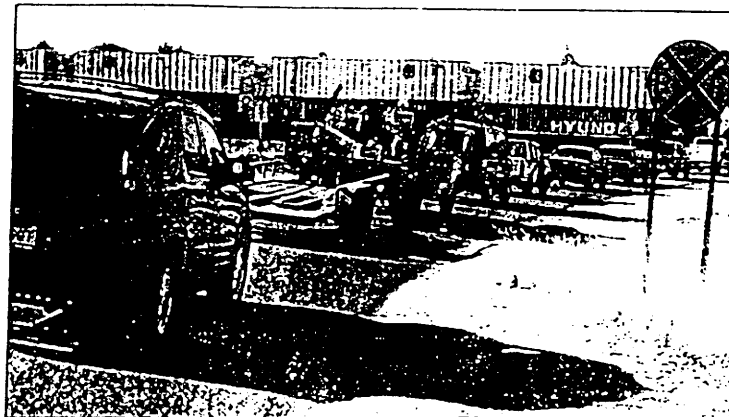
By Marvin Robertson  
Miner Staff Writer

A property tax will be the subject of a special Jan. 17 meeting of the Kingman City Council.

If the council decides to put the tax proposal before the voters in May, a decision must be made in early February. City Manager Roger Swenson said.

"The council would not raise taxes," Mayor Les Byram said. "We would put the needs and the tax issue before the people and let them make the decision."

City officials expect reduced revenue from state highway user



Miner Photo/MARVIN ROBERTSON

Motorists face long waits for trains at Louise Avenue, the only crossing between Hualapai Mountain Road and the Kingman Airport

During their regular meeting Monday, council members discussed a property tax and a half-cent increase in the current 2 percent sales tax. The council instructed staff to bring specific tax proposals and capital projects to the 9 a.m. meeting on Jan. 17.

"Any council member is welcome to make suggestions on projects and bring questions for the staff," Byram said. "The public is welcome to attend the session Jan. 17."

On Monday, council members had many questions about revenue from a property tax. Limitations on use and how the spending limits and

"We need to know more about rules and regulations," Councilman Dave Byram said.

Byram said it is time to discuss a property tax issue before explaining it to voters.

If Kingman residents vote for a property tax in May, proceeds would be available in July for the 2005 budget.

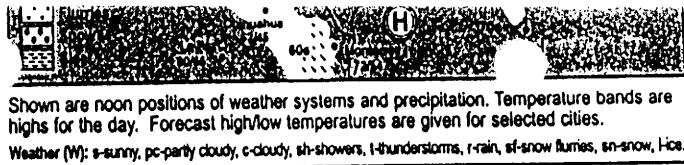
City officials estimate that about \$7.5 million in underpass projects, projects for parks, and other projects would cost \$1.35 million per \$100 increase in property tax.

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St. Louis	51	39	pc	57	36	s
Salt Lake City	42	28	s	44	26	pc
Seattle	54	38	s	50	38	pc
Washington, DC	36	30	pc	48	34	pc



Shown are noon positions of weather systems and precipitation. Temperature bands are shown for the day. Forecast high/low temperatures are given for selected cities.

Weather (W): s-sunny, pc-partly cloudy, c-cloudy, sh-showers, t-thunderstorms, r-rain, sf-snow flurries, sn-snow, l-ice.

## Lotteries

### Fantasy 5

PHOENIX (AP) — The winning numbers in Monday night's drawing of the Arizona Lottery's "Fantasy 5" game were:

2, 10, 32, 6, 7

### Pick 3

By The Associated Press

Here are the winning numbers picked Monday night for the Arizona Lottery's Pick 3 game: 0, 2, 2.

Ticket-holders with all three winning numbers in the order given win the top prize of \$500.

## Death Notices

Billy F. Owens of Kingman died Sunday Jan. 5, 2003, in Kingman. He was born Nov. 15, 1927, in Eureka Springs, Ark.

There will be no services in Kingman. Burial will be in Arvin, Calif.

(See obituary, Page 7)

Carl L. Burrows of Kingman died Sunday Jan. 5, 2003, in Kingman. He was born July 5, 1924, in Cleveland, Ohio. His remains will be cremated.

## Miner Late?

If you have not received your Kingman Daily Miner by 4:30 p.m., Monday through Friday, please call the circulation dept. before 6:00 p.m.

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## City .....From Page 1

Also Monday, the council voted 7-0 to approve the consent agenda, which included the awarding of bids to:

- Simpson Norton for a riding mower at \$16,729 plus tax.
- Southwest Golf Cars for 20 gasoline carts at \$2,703.21 each.
- Five Star Ford for five Ford Crown Victoria police cars at \$24,788.93 each.

After public hearings about recommendations from the Kingman Planning and Zoning Commission, the council:

- Voted 6-1 to amend the general plan and rezone 8.97 acres along Hualapai Mountain Road at Slaughterhouse Canyon Road for a new Bureau of Land Management office. Councilman Frank McVey cast the dissenting vote.
- Voted 7-0 to rezone 1.47 acres on the south side of Country Club Drive near Greenway Drive for three residential lots.
- Voted 7-0 to approve a conditional use permit to expand the Kingman Aid to Abused People domestic

violence shelter.

- Approved 7-0 an ordinance to allow zoning and regulation of a motocross track. The ordinance permits approval of a track with a conditional use permit following public hearings. No application is currently before the council.

- Voted 7-0 to approve an ordinance amendment allowing 10-foot side yards on corner lots in R-6 zoning.

The council also voted 7-0 to transfer funds within the police budget to keep Officer Jack King assigned to a gang task force. The state cut task force funding Jan. 1.

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issues such accidents, improper handling or lack of care. A resident might need assistance eating or with another daily activity but is not getting it.

"Residents have a lot of rights," Sullivan said.

Not everyone has a complaint, Young said. Some residents are just happy to see a friendly face.

"We have been seeing some of the same people for 10 years, two to four times a month," she said. "I do feel I am making a difference in their lives, even if it isn't always a big difference.

"I try to be careful because when people are sick they take things differently. I know when I am sick, not

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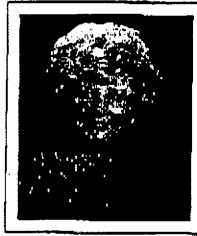
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**Barbara A. Ricca**  
Designated Broker



March 8, 2003

To Whom It May Concern,

I am writing this letter in response to the decision of the Bureau of Land Management on the location and procedures of your bidding and negotiations regarding your new proposed building to be located in Kingman, Arizona.

In the beginning, I received many many calls from proposed bidders from several states with the intent of making a proposal for bid to the BLM. I might add, so did many other Realtors in Kingman. I did have one client from Reno, Nevada who called me with the full intent not only to bid the project, but was told by your representative, Ex. 6 whom I had several conversations with later, that if he would find a site and build the project he "would" get the bid.

It was made very very clear from the onset of my personal involvement in this project process, that the BLM absolutely was not happy with the Dunton owners of their existing building, and under no uncertain terms were they going to receive any consideration if they were to bid this project. I would like to note at this point, I personally know the history of the particular building that houses the BLM today.

Further, I was immediately asked, by my client in Reno, Nevada, to call Ex. 6 at this office, to get the particulars he needed, locations wanted and to make an appointment with him to view particular locations. I did this and was told the BLM wanted to be more visible to the public, to appear more public user friendly, and they needed approximately 4 acres. I was also told the Hualapai Mountain Road area was not going to be considered at all. This was also told to other Realtors, as from time to time we were calling each other on listings as they came out in highly visible areas especially located very near to, or off corners, to Stockton Hill Road between Route 66 and Northern Avenue. In fact one of my relatives held an option on a piece of property on Stockton Hill Road for almost 18 months by another proposed bidder.

In conclusion, I have been informed by several people of the community who have been involved with Ex. 6 and others from his offices of the proposed final outcome of this proposed BLM building and site, at this time. I personally feel the proposed bidders, Realtors, land owners taking their property off the market, and even the proposed site that may have been selected, have all been used and lied to. There have been tens of thousands of dollars

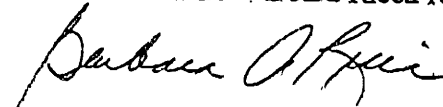
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spent by these people for the BLM's mismanagement, misused treatment, and out right being lied to, were in good faith trying to provide housing for your department. Let me also say I do not feel this is the only incident or area that has been treated this way. I do believe this is most likely the standard of practice rather than an isolated incident. The Dunton family is not just involved in this contract with the BLM. They have made a practice in their business for many many years to provide housing in this community, for many governmental agencies to the extent of purchasing and remodeling properties, if necessary, for the specific agencies requests where almost no one else has or will deal with the government anymore.

I as a Realtor have been in business for 31 years in Kingman. I have worked with many agencies in the past and never have I seen anyone treated, brazenly talked about and horrible statements made about as was said to me by your representative about your current Landlord the Dunton's. Furthermore, does your proposed site owner know of the lease arrangements being made or may have been made by now with your current building? I feel everyone in your particular agency should be held accountable.

Respectfully Submitted,

CENTURY 21-Barbara Ricca Realty



Barbara A. Ricca  
Broker





# HOLLINGSWORTH PROPERTIES



February 17, 2003

RE: Kingman Arizona proposed sites for new BLM facility.

To whom it may concern;

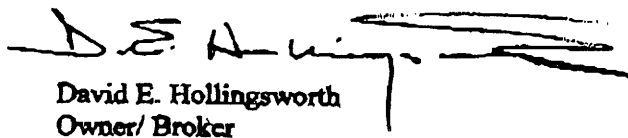
I was contacted by Ex. 6 of Tricon Dev. Inc. from Murray Utah in the fall of 2001 to send them potential sites for a proposed new BLM facility in Kingman Arizona. Mr. Ex. 6 and others in his investment group, subsequently came to Kingman to meet with me and to see the potential sites that I had listings on. I was told by Ex. 6 that they had previously completed 14 facilities for BLM and that they felt they could be competitive in the bidding process.

Ex. 6 did, to my knowledge, submit bids prior to the January 2002 deadline on those properties I had proposed that met the requirements of location, correct zoning, utility infrastructure, etc. as noticed by the BLM in their newspaper advertisement. In early February 2002 I was again contacted by Ex. 6 to be available to show these sites to Ex. 6 on February 13<sup>th</sup>, 2002.

Ex. 6 of BLM, called me on February 11<sup>th</sup>, 2002 to ask if our appointment could be moved up to the afternoon of February 12<sup>th</sup>, 2002 and I agreed. I picked Ex. 6 up at the Kingman BLM office and showed him the 4.77 acres on Harrison, the 5.31 acres at the corner of Airway & Western, and then, at his request, showed him the Hualapai Mountain Rd. corridor from Route 66 to Eastern. I explained that there was land available in this area from the Dunton family and others that could have the correct zoning put into place. His reply was that BLM was not interested in property that was un-zoned and more particularly BLM was not interested in the Hualapai Mountain Rd. corridor. I then showed Norm Logan the Route 66 corridor north of I-40 and the Airway Ave. corridor from Route 66 to Stockton Hill Rd. both of which he was un-interested in. I returned to the Kingman BLM office and dropped Ex. 6 off.

On February 26<sup>th</sup>, 2002 I was copied on a letter from Ex. 6 to Ex. 6 saying that the 5.31 acre parcel on Airway & Western was acceptable and would be considered for negotiation. Ex. 6 called me on the 28<sup>th</sup> and asked that I draft a contract offer on this property and forward it to him for his review and signature. That was the last I heard from either party.

Sincerely;

  
David E. Hollingsworth  
Owner/ Broker

B.L.M.  
Bureau of Land Management  
or  
Bureau of Lies & Manipulation

Our relationship with the B.L.M. began in 1975. Our company is Dunton & Dunton., F. Roy Dunton and Scott Dunton. We bid a B.L.M. building for Kingman, Arizona to the GSA and we were successful. The building was completed in 1977. We have had it leased to the B.L.M. for over 25 years. We have renovated and expanded the building. We have dealt with three different people from the government [Ex. 6] [Ex. 6] [Ex. 6] In 25 years, we have never had a disagreement or a conflict of any kind.

In September of 2000 our maintenance man was in the B.L.M. building doing repairs and saw a group of people meeting with the local employees and discussing building a new B.L.M. building. Within several weeks I was contacted by two Realtors that told me someone else was going to build a new 21,000 square foot building.

I contacted [Ex. 6] the contracting officer, at the B.L.M. in Denver, Colorado. She said they would go out for bids at the end of our lease and we would have an opportunity to bid our old building refurbished and a new one if we wanted to, we told her we did. My Dad could bid one and I would bid the other. B.L.M.'s lease for our existing building ends April 2002.

In October of 2000, we received a copy of a request to submit proposed sites for a new B.L.M. building. The delineated area went down Harrison Street. It excluded all of our 18 acres and our existing B.L.M. building, which was on the east side of Harrison. I called [Ex. 6] and protested. It was evident that the local manager of the Kingman B.L.M. office did not want us to bid our existing building or location. It is also evident that they did not even want to deal with the us. (Attached are letters). We sent Congressman Bob Stump letters and protested to try to be included in the process.

On October 26<sup>th</sup>, 2000, [Ex. 6] called us and they agreed to change the delineated area to the entire city limits. Arizona B.L.M. fought it even after [Ex. 6] the local B.L.M. manager, told me and Congressman Stumps office that we could bid our locations and even after [Ex. 6] told them what they were doing was illegal. [Ex. 6] readvertised the solicitation and included all of Kingman in the delineated areas. The responses were due by March 20<sup>th</sup>, 2001.

Because they had intentionally tried to exclude us from a fair and open process they had problems with their solicitation. [Ex. 6] called us on May 29<sup>th</sup>, 2001, and we discussed a lease extension for our existing building and readvertising the solicitation later. They only had an option for another five year lease. [Ex. 6] told me that if I would give her a 5 year lease with 3 years firm she would stop the solicitation for a new building. We agreed and I sent her a fax. (Fax) [Ex. 6] sent back a letter canceling the solicitation. (Letter) We went to our bank and got a line of credit based on our agreement. (Letter) [Ex. 6] was to be here in 15 days to sign the new lease.

Ex. 6 a new contracting officer sent us a letter on July 10<sup>th</sup>, 2001, stating he had started a new project and he readvertised it on July 12<sup>th</sup>, 2001. All proposed sites were to be submitted by July 30<sup>th</sup>, 2001. Occupancy for the building was set for September 30<sup>th</sup>, 2002. I called Ex. 6 on August 1<sup>st</sup>, 2001, and she said she had been taken off the project and Ex. 6 had taken over. I called Ex. 6 and he said he started up a new solicitation and I could not prove anything Ex. 6 told me. Ex. 6 said he would send me a new lease for 18 months. He stated that if I did not sign it, the government would seek to take whatever action it needed to secure occupancy rights. I told him that I would not sign it, they owed us a 36 month lease. (Refer to Transcript).

I called Ex. 6, Ex. 6 and Ex. 6 boss in Denver, Colorado. I explained the whole situation to him. He told me that Ex. 6 was under doctor's care as we speak and that she had asked to be taken off the project. I called Ex. 6 back, she was in her office which is by Ex. 6 office, Ex. 6 said she was not under doctor's care and did not ask to be taken off the project. (Refer to Transcript). Ex. 6 said he would check into the project and call back, he never did.

I taped all the conversations because I knew the whole process stunk and everyone had lied to me except Ex. 6. We sent the transcripts to Congressman Bob Stump.

We did not hear from anyone for six months. I finally called and was told Ex. 6 retired and I was to talk to Ex. 6. I spoke to him on January 8<sup>th</sup>, 2002, and explained the whole process again. We finally agreed that he would send us a 24 month lease and they agreed to raise the rent from \$17,180.15 to \$20,616.00. Ex. 6 called me back the same day and said he had a problem and he wanted to change it to a 16 month lease, however, he would agree to change the lease rate from \$17,180.15 to \$29,900.00. (Copy attached).

Ex. 6 was trying to correct what we could prove happened to us. The B.L.M. denied giving Ex. 6 the authority to give us the 36 month lease. Ex. 6, Ex. 6 and Ex. 6, B.L.M. employees, all were on the phone with her before she promised us the lease. After they spoke to Ex. 6 and the Arizona B.L.M., they denied telling Ex. 6 to give us the lease and stop the solicitation. They blamed it all on Ex. 6. (Attached are copies of emails and letters.)

Ex. 6 knows what happened and he could tell the truth, but he also knows what happened to Ex. 6 for telling the truth. Arizona B.L.M. requested Ex. 6 be taken off all the projects and wanted her to apologize.

Ex. 6 told us Ex. 6 applied for a new job. She competed for it and wanted it. (Copy Attached). This was a lie, Ex. 6 was told what to do and she did it. She got us to agree to a 36 month lease. When Arizona raised hell about it, Ex. 6 and Ex. 6 both lied and denied they told Ex. 6 to do it. Ex. 6 lied about Ex. 6 being treated fairly and being promoted. She was the scape goat for the process. Ex. 6 filed an EEOC suit against the BLM and is still not at work. (Letters Attached)

Ex. 6 sent us a new lease raising the rent from \$17,180.15 to \$29,900.00. The government should have gotten 36 months use of a building, instead because of the Kingman B.L.M. Manager, Ex. 6 desire for a new building they got 16 month's use. (Leases Attached)

On January 24<sup>th</sup>, 2002, within 15 days after we signed the lease, we received a call from Ex. 6 and letters about the market survey. The letter made no mention of a new advertisement and no new completion dates. He set up a meeting on February 11<sup>th</sup>, 2002 to look at the 6 sites we had proposed, including our existing building and adjoining properties on Harrison. The local office did a review and got employees to sign letters saying their current location was too close to houses which are at least 500 feet from the building. They stated it was too close to the two billboards, there is one 400 feet from the building. They also stated the traffic at the intersection of Stockton Hill is bad. The building is on the I-40 frontage road between two intersections in the middle of Kingman.

Our existing office and property were excluded in market surveys because they wanted a new building on Hualapai Mountain Road. They were afraid we could bid the old building too cheap and too desirable for the lowest bid so they had to exclude it by market surveys, employees comments etc. The tax payers were cheated again (Letters Attached).

They excluded our other piece on Railroad because it was behind a gas station. They excluded our piece between Eastern and Washington because they said it was too close to apartments. We were only proposing 2 ½ acres of a 6 acre parcel. We would have had at least a 300 foot buffer from the apartments and all the utilities available. They approved another 5 acre site on Hualapai Mountain Road between Monroe and Adams, which we did not bid because of its utility costs.

SDA had their site approved next to our 6 acre site that was turned down. It is exactly the same as ours, there was no reason to turn ours down. We feel it was turned down because we owned it.

We understood we had to show proof of zoning. The last solicitation advertised on July 12, 2001, by Ex. 6 stated "The proposed sites or building must be visible to the public, easily accessible and served by all city services and utilities. They must be zoned for the intended use." We had our site on Railroad rezoned to C3, it was commercial after we rezoned it. This is the only site we bid because it was approved and zoned. SDA's site was not zoned commercial.

SDA's president, Ex. 6 came to Kingman's Planning & Zoning meeting on December 10, 2002. He told them he had the B.L.M. preferred location. We were told by Ex. 6 all approved locations were equal. Apparently their desire to be on Hualapai Mountain Road as shown in the letters disputes the law, as we understood it. Ex. 6, of SDA, said they would have a letter and the contract award in their hand the day after Christmas for the City Council meeting on January 6<sup>th</sup>, 2003. How could he know that? According to the letter from Ex. 6 he has had better access to the contracting officer than other solicitors. It seems to me like a big conflict of interest. The site SDA proposed was optioned one hour before the original offer was due in Denver on June 18<sup>th</sup>, 2002. Does it seem possible all the plans, drainage, reports, zoning etc. could have all been done and delivered in one hour? According to

Ex. 6, the site was approved in February of 2002. The owner of the property, Ex. 6, was never contacted about a price or contacted for this site at all for approval in February. On June 3<sup>rd</sup>, 2002, another realtor, Ex. 6, asked that the site be approved for her client not SDA. This was after the advertised deadline of July 30<sup>th</sup>, 2001. (Letters Attached). Ex. 6 was not told the property was already approved instead, Ex. 6 was contacted by Ex. 6 of SDA. Ex. 6 said the property had been approved in February and Ex. 6 got an option on it on June 18<sup>th</sup>, 2002, one hour before the offer was due.

We submitted an offer on June 18<sup>th</sup>, 2002. We heard nothing until we were sent a copy of a letter dated November 18<sup>th</sup>, 2002, sent to Ex. 6 a representative we used to speak with Ex. 6. This was a request for our best and final offer with all the items and plans they wanted changed and items they wanted a lump sum price on. We got our copy from Ex. 6 on November 27<sup>th</sup>, 2002 in the afternoon. No one was available until the following Monday, December 2<sup>nd</sup>, 2002. All the completed documents and new plans were due by December 3<sup>rd</sup>, 2002, it had to be mailed by December 2<sup>nd</sup>, 2002. Ex. 6 notified Ex. 6 we did not have adequate time to change our plans and address all the items in the letter, we requested 5 days extension and we were allowed only one additional day. Our architects were out of state and we had to hire a draftsman to revise the floor plan to show the areas they required. We barely got it done for Fed Ex by Tuesday, December 3<sup>rd</sup>, 2002. The plans were still wet and smeared and we had to replace our set. At the time, we did not know we did not get our notice about the due date for the best and final from the B.L.M.

December 20<sup>th</sup>, 2002, we received a letter from Ex. 6 stating no further consideration would be given to our final offer, they had thrown out our bid because we left out a dollar figure on a lump sum item. It should of said \$100.00 for an electric panel. We also left out the word 'tax' in a sentence. Ex. 6 said they would not consider our bid. We mailed Ex. 6 a letter and faxed a copy on December 20<sup>th</sup>, 2002, complaining about the elimination of our bid for consideration. We called asking for protest information. Mr. Ex. 6 called me on December 23<sup>rd</sup>, 2002 and told me we were the lowest bidder, but ours was thrown out. He said they could not call or clarify anything on the bid, it would be negotiating the lease. The bid they accepted was for \$402,060. He did not tell me that who was awarded the bid. He said he would send me everything in writing. I told him we did not have adequate time to prepare our best and final offer. He said we had from November 19<sup>th</sup> to December 3<sup>rd</sup>, 2002. I told him that was not true and we requested copies of the return receipts. He did not have them, he faxed us what they had on December 23<sup>rd</sup>, 2002, which were from previous mailings.

On December 24<sup>th</sup>, 2002, we received a copy of the November 18<sup>th</sup>, 2002, request for the best and final offer. It took 36 days to get it to us. We noticed the wrong zip code had been put on our mail by the B.L.M.

We wrote a letter and faxed the information to Ex. 6 telling him about the mail problem on December 24<sup>th</sup>, 2002. We thought it would be important to him and it wasn't. We sent copies of all the return receipts and notices with the wrong zip codes on them.



On December 24<sup>th</sup>, 2002, I wrote and faxed another letter to [Ex. 6]. I complained about all the injustices and told him I believed they would give SDA the award as planned all along.

On December 24<sup>th</sup>, 2002, we sent out three protest packages. On December 31<sup>st</sup>, 2002, [Ex. 6] [Ex. 6] faxed a letter and asked who we wanted to investigate our protest. He said "I will forward additional information on processing the protest through the GAO."

On January 2<sup>nd</sup>, 2003, we sent a faxed letter asking [Ex. 6] to tell us who the bid was awarded to, since we had not received written confirmation. We asked to have [Ex. 6] letter included in the protest. Later that afternoon we received a written copy of the awarded amount from [Ex. 6] that had been sent on December 23<sup>rd</sup>, 2002. Again, it had the wrong zip code and it did not say who was awarded the bid only the amount. That same day [Ex. 6] faxed us and said he told us in the letter from December 23<sup>rd</sup>, 2002 that SDA was awarded the bid. He did not tell us on the phone, by letter or fax regarding who had been awarded the bid before that.

On January 3<sup>rd</sup>, 2003, we requested by letter and fax that [Ex. 6] send us the information they withheld under the Freedom of Information Act. He said they would release it after the bid. Attached was a request from Congressman Stump about the information.

January 3<sup>rd</sup>, 2003 we faxed and sent a letter to [Ex. 6] telling him we did not want his office to handle the protest, we wanted it forwarded to the highest level of Government possible. We understood it to be the GAO. We asked them to forward the protest address to the GAO. We included copies of the regulations, which were unclear and had no address for the GAO. January 6<sup>th</sup>, 2003, we mailed another copy of the protest to GAO.

We received a fax from [Ex. 6] on January 6<sup>th</sup>, 2003, saying they would not send the protest addressed to GAO to them and it would be returned to us.

The GAO faxed us a letter on January 7<sup>th</sup>, 2003 and said they would send us a protest booklet and said they sent us a letter from [Ex. 6], and confirmed they received our copy of the protest and included some of the rules. [Ex. 6] [Ex. 6] stated the GAO would be returning the protest because the cover letter said [Ex. 6]. Our secretary offered to fax a corrected cover letter, but was told she could not do that.

On January 8<sup>th</sup>, 2003, we hired an attorney, Pat McMahon of Barton, Baker, McMahon, & Tolle LLP of Washington, D.C. He amended our protest from January 8<sup>th</sup>, 2003, and asked the GAO portion to be withdrawn and to have the B.L.M. investigate it at a higher level.

January 10<sup>th</sup>, 13<sup>th</sup>, and 14<sup>th</sup>, 2003, we faxed a letter of request to [Ex. 6] asking how many offers were submitted and how many were considered for an award. We received no reply.

On January 15<sup>th</sup>, 2003, the GAO sent confirmation of withdrawal. We are now waiting to see if the B.L.M. will investigate any of our complaints. We are afraid they will avoid any type of investigation because of procedure, time or rules that are hard to find or understand.

On January 16<sup>th</sup>, 2003, after making 3 requests, we received a fax from Ex. 6 We were told there were three original offers and only two were asked to send in best and final offers (SDA and ourselves). Ours was rejected prior to consideration. The only bid considered was SDA, what a surprise.

It is very obvious that we have not been treated fairly or equally and that there was a preferred location. The B.L.M. has gone out of their way to be sure we could not bid our existing building or property that surrounds it. They have gone out of their way to end their relationship with us. They ran advertisements with completions dates for the building and cut off dates for sites which were not adhered to or readvertised. The last advertisement Ex. 6 ran was July 12<sup>th</sup>, 2001, with a cutoff date for proposed sites of July 30<sup>th</sup>, 2001, and a completion date of Sept 30<sup>th</sup>, 2002. It was never readvertised. He would not give us amended dates when we requested them.

Our property next to SDA's was rejected. It is the same as SDA's property. SDA had an advantage of dealing with their friend Ex. 6. When Ex. 6, the seller for SDA's site, told Ex. 6 and Ex. 6 it looked like the Duntons' had their property zoned and plans done and stated we had a good shot at building the project. Ex. 6 wondered why he should tie up his property with SDA. Ex. 6 and Ex. 6 told Ex. 6 that the Duntons' getting the award would never happen and laughed.

Our relationship with Ex. 6 and Ex. 6 has been very strained. They knew we taped their conversations and could prove the BLM lied to us and has continuously tried to keep us out of the process. We got the letters and all this information about this the last few days of December 2002 when Congressman Bob Stump closed his office and gave us his file.

How could SDA know at the Planning and Zoning meeting on December 10<sup>th</sup>, 2002 they would have an approval letter in their hand by December 26<sup>th</sup>, 2002? How could they know they had the preferred location and say it was a done deal and they would get the bid? Why was all our pertinent mail sent to the wrong zip code, giving our competition many more days than us to complete their bids? Why were we eliminated for two insignificant items when we could have answered two questions in one minute. Why has Ex. 6, the Planning and Zoning Director and a Planning and Zoning Commissioner all stated they heard that Ex. 6 of SDA and Ex. 6 went to school together?

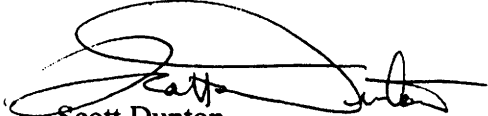
This is a situation where the Government has wasted in excess of \$1,000,000. Ex. 6 Ex. 6 has said they did not care the SDA's bid was \$402,060 and ours was \$385,800 costing the Government \$865,000 more over the 20 year lease. He said it was alright as long as everyone was treated fairly and equally. Our bid was \$29,900 per month while SDA's was \$33,505 per month. That is \$3,605 a month, wasted. Can anyone look at all the information and say we were treated as fair and as equally as SDA?

Who watches how the B.L.M. operates, and who cares? We have written to Gail Norton, Secretary of the Interior, and Kathleen Clarke, head of the B.L.M. and nothing has happened. We have never been contacted by anyone. We contacted the Inspector General, they were not concerned or interested, they just did a policy review on what the B.L.M. asked them to look at, the delineated area.



Ex. 6

filed an EEOC suit. The Arizona B.L.M. wants her to apologize. It looks like the only way to get any attention for illegal activity and waste is to hire an attorney and file a complaint in Federal Court. Doesn't it sound like there is a major problem with the system and the whole process. Maybe the B.L.M. really is above the law.



Scott Dunton



F Roy Dunton

*Done*  
*4/16/03*  
*Flanagan*  
*4/16/03*

1781/1535 (AZ-951)

April 17, 2003

Mr. Scott Dunton  
Mr. F. Roy Dunton  
Dunton & Dunton  
119 E. Andy Devine Avenue  
Kingman, AZ 86401

Dear Sirs:

Your letter of February 28, 2003, to Senator John McCain regarding the solicitation and award process of the Bureau of Land Management (BLM), Kingman, Arizona, facility project has been forwarded to this office for reply.

As I am sure you are aware, the solicitation and award process for BLM facilities is handled by our National Business Center in Denver, Colorado. As a result of issues raised earlier by you, the BLM Director asked for an independent evaluation of the subject leasing procedures by the Office of the Inspector General (OIG). The evaluation was performed in accordance with the President's Council on Integrity and Efficiency Quality Standards for Inspections. After the independent investigation was completed, the OIG concluded:

We have concluded that the National Business Center's leasing procedures for this project complied with generally accepted leasing and contracting practices...nothing came to our attention that indicated that the Kingman Field Office requirements would not be met in a cost conscious and free and open environment.

Based upon careful evaluation of the proposals, the National Business Center awarded the lease on December 23, 2002, to SDA, Inc. The protest that you filed was denied for being untimely, however by letter dated February 7, 2003 (copy enclosed), the National Business Center addressed each of the issues you raised and the protest was determined to be without merit.

If I can be of further assistance, please do not hesitate to contact me.

Sincerely,

/s/ Lonna M. O'Neal

for Elaine Y. Zielinski  
State Director

Enclosure  
cc: Senator John McCain



## United States Department of the Interior

BUREAU OF LAND MANAGEMENT  
National Business Center  
Denver Federal Center, Building 50  
P.O. Box 25047  
Denver, Colorado 80225-0047

February 7, 2003

1535 (BC-665)

Mr. J. Patrick McMahon  
Barton, Baker, McMahon & Tolle  
1320 Old Chain Bridge Road, Suite 440  
McClean, Virginia 22101

Dear Mr. McMahon:

This is the Agency's response to your letter dated January 13, 2003, requesting that the Agency consider the protest that Dunton & Dunton, LLP ("Dunton") submitted to the Bureau of Land Management ("BLM" or "Agency") on December 24, 2002, and withdrew on January 3, 2003; and requesting that the Agency consider a "supplemental" protest. (Exhibit 1)

### A. THE AGENCY DOES NOT HAVE JURISDICTION TO CONSIDER DUNTON'S PROTEST.

The Agency will not consider Dunton's protest because it does not meet the timeliness requirements of FAR Part 33.103(e), which provides that protests filed with the agency must be filed, "no later than 10 days after the basis of protest is known or should have been known, whichever is earlier."

The facts regarding the timeliness of the protest are as follows: On December 24, 2002, Dunton submitted a protest to the Agency (Dunton's Protest. (Exhibit 2) The Agency received Dunton's Protest on December 30, 2002. The protest package contained three copies of the protest; one copy for Norman E. Logan, one copy for Dave Cunningham and another for the General Accounting Office (GAO). By fax dated December 31, 2002, the Agency asked Dunton whether it intended to submit its protest to the Agency or to GAO. (Exhibit 3) Dunton replied by fax dated January 3, 2003, and specifically stated that "we do not want your office to have any jurisdiction in this matter, we would like this protest forwarded to the highest level of government possible. It is our understanding this would be the GAO." (Emphasis added) (Exhibit 4) On January 6,

2003, the Agency sent another fax to Mr. Dunton confirming that Dunton had withdrawn its protest from the Agency's review.

Subsequently, Dunton filed its protest with the GAO. Shortly thereafter, Dunton withdrew its protest from GAO. On January 15, 2003, GAO sent a letter to Dunton confirming a withdrawal "pending the Agency's review." (Exhibit 5)

It is the Agency's position that this re-submission was untimely. The letter of January 13, 2003, was the first time, after Dunton withdrew its protest, that the Agency was informed that Dunton again wanted the Agency to review its protest. For a re-submission to be timely, Dunton needed to resubmit the protest to the Agency within the ten-day period expressed in FAR 33.103(e). Therefore, Dunton would have had to have re-submitted the protest on the same day it withdrew the protest from Agency consideration, on January 3, 2003. The January 13, 2003, letter asking the Agency to consider the December 24, 2002, protest is too late.

#### B. THE AGENCY WOULD NOT HAVE SUSTAINED DUNTON'S PROTEST ON THE MERITS OF THE CLAIM

Even though the Agency denied Dunton's Protest on jurisdictional grounds, this letter will address the merits of its December 24, 2002, protest and its supplemental protest of January 13, 2003.

1. Allegations that Dunton had Insufficient Time to Prepare and Review its BAFO are Untimely and Would not have Resulted in an Acceptable Final Proposal Submission (BAFO)

**a. Dunton is Untimely in Protesting that it was not Given Enough Time to Complete Proposal Revisions**

In Dunton's December 24 protest and its January 13 letter, Dunton argues that it did not receive the Agency's request for the Final Proposal Revision ("best and final offer") (Agency's Request), "until the afternoon of November 27, 2002." (Exhibits 1 and 2)

First, the Agency disagrees with Dunton's statement regarding when Dunton received the Agency's Request. Mr. Brian Driscoll, Dunton's representative, received the Agency's Request in the morning on November 26, 2002. (Exhibit 6) The "final proposal revision" was due December 3, 2002.

After Mr. Driscoll received the Agency's Request, he contacted the contracting officer and asked for a seven to ten day extension, stating that he needed this time to revise the drawings for the Final Proposal Revision. The Agency advised him that it was not necessary to revise the drawings for the Final Proposal Revision. Nevertheless, the contracting officer agreed to a one-day extension.

Although Dunton was given a one-day extension to respond to the Agency's Request,

Dunton argues that it was prejudiced because the request for revised proposals was sent out on November 19, 2002<sup>1</sup> and, therefore, the other offerors had more time to review and respond to the Agency's Request, including the awardee, SDA, Inc. (SDA). Dunton argues that the reason that it received the Agency's Request late was because the Agency did not use the right zip-code.

The Agency would have denied Dunton's protest on this issue because, if Dunton believed that it was prejudiced by the short time that it had to respond to the Agency's request, it was obligated to submit a protest to the Agency prior to the date for receipt of final proposals. Since Dunton did not file a protest at this time, it cannot thereafter argue that it was prejudiced by the short response time.

**b. Dunton's Offer Contained a Contingency that Would not have been Cured even if Dunton had "Proofed" its Final Proposal Revision.**

Dunton argues that, as a result of the short response time to the Agency's request, it made mistakes in its offer that are normally discovered and corrected during "proofing" of the document.

The Agency does not agree. As the Agency stated in its letter of December 18, 2002, the Agency did not accept Dunton's final offer because Dunton submitted the offer subject to a contingency and because it failed to price some circuits. (Exhibit 7) Dunton's proposal placed a condition on Item 17, Exhibit A, that "sales cost if paid will be additional." This statement made the offer a contingent offer, one not representing a firm pricing.

The contracting officer could not determine the price because he did not know what the "sales cost" would be. A contracting officer may reject a proposal if it is ambiguous, indefinite or uncertain. In this case, the proposal is ambiguous.

Even if Dunton meant to state "sales tax if paid will be additional," instead of "sales cost," the Agency would have rejected the proposal because the statement would have created a contingent offer. Either statement, "sales cost" or "sales tax," results in an offer that is contingent upon an undeterminable associated cost, making the offer noncompliant and unacceptable.

**2. There is No Merit in Dunton's Claims that the Agency did not Conduct the Procurement Fairly**

Dunton's Protest questions the conduct of the procurement process and alleges that the Agency was biased against Dunton. The Agency disagrees with Dunton's position and maintains that it conducted the procurement in a fair manner that was consistent with the regulations.

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<sup>1</sup> The Agency actually sent the request to all offerors on November 22, 2002. (Exhibit 8)

**a. Failure to use the existing BLM building did not Prejudice Dunton**

One of the issues that Dunton raised in its protest regards the fact that the Agency did not decide to continue to use the existing building housing the Kingman Field Office, which was owned by Dunton.

The contracting officer made a reasonable determination that the existing building housing was not acceptable. The Agency then took the steps to conduct a fair competition. The Agency can find no valid grounds for Dunton to protest the Agency's decision to find other office space, especially when Dunton participated in a fair and open competition.

**b. Dunton was not Prejudiced when the Agency Considered Parcels of Land After the Conclusion of the Market Survey but Before Initial Offers were Accepted by the Agency**

Dunton complains that the Agency's market survey contained a deadline for submitting property for the Agency's consideration, but the Agency conducted surveys and gave site approvals to other applicants after the market survey deadline.

By letter of January 24, 2002, potential offerors were advised that the Agency wanted to conduct a market survey on February 14, 2002. All offerors were advised that the dates and times to show their properties had been discussed by phone call, and that it was important for offerors to meet the schedules set up in the subject phone calls. (Exhibit 9) The letter did not state that no additional properties could be considered. Subsequent to the survey, on April 16, 2002, the Agency issued a Solicitation for Offers number NC-L-02-0235, which established the firm date for submitting property for the Agency's consideration as June 18, 2002. (Exhibit 10)

Both SDA, the awardee, and Dunton, submitted sites prior to the market survey deadline. The sites offered by SDA and Dunton were surveyed and accepted for consideration during February 2002. On February 26, 2002, both SDA and Dunton were advised of the acceptability of the property that they offered. (Exhibit 11)

Subsequent to the conclusion of the market survey, both SDA and Dunton offered additional properties for the Agency's consideration. For example, Dunton offered Parcel # 321-07-060, which was not surveyed until June 2002 and was still accepted for consideration. (Exhibit 12) Thus, by its own actions, Dunton acknowledges an understanding that the market survey cut off date it is attempting to claim is prejudicial, benefited both Dunton and SDA equally.<sup>2</sup>

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<sup>2</sup> The expression of prejudice is contradicted by Mr. Dunton's own submission. If his view were to be accepted, the acceptance and merger of Dunton's additional offer would have prejudiced SDA. However, the fact is that all sites were accepted timely and within regulatory guidelines.

**c. Dunton was not Prejudiced when the Agency Considered Parcels of Land that were not zoned commercial**

Dunton complains that the property offered by SDA was not zoned for its intended use when the Agency accepted its offer and, therefore, its award should be withdrawn.

The Agency disagrees. The Solicitation for Offers Number NC-L-02-0235, Section 1, paragraph 1.10 (b)(10) "Submission of Offers" states, "Evidence that zoning laws will permit the type of facility proposed." (Exhibit 13) The solicitation does not state that the property had to be zoned for commercial use at the time of acceptance.

SDA was able to show reasonable evidence to the Agency that the zoning laws would permit commercial use in the areas that the BLM accepted.

The Agency also notes that several parcels that Dunton offered for consideration, Parcel # 304-18-057 and Parcel # 321-07-060, were not zoned for commercial use when Dunton proposed them for consideration. Similar to the situation with SDA, the Agency considered these parcels because it was clear from the City of Kingman letter dated June 10, 2002, regarding zoning, that the City of Kingman would entertain a zoning expansion if needed. (Exhibit 14) With respect to Parcel # 304-18-057, this property was not rezoned until June 2002, many months after the property was accepted for consideration in February 2002. And with respect to Parcel # 321-07-060, it was still zoned residential by the time Dunton submitted its "final proposal revision."

It is clear that neither party was prejudiced in regard to zoning.

**d. Additional Allegations**

Dunton's protest cites to e-mails between Dunton and a previous contracting officer, Ex. 6, on a previous project to support its complaint. The Agency believes that references to a prior project are not materially relevant to Dunton's protest. The referenced project was canceled in 2001. The specifics of Ex. 6 complaint of discrimination are also immaterial to subject protest.

**C. CONCLUSION**

For the reasons discussed above, the Agency denies Dunton's Protest on jurisdictional grounds because it resubmitted its protest to the agency too late. Even though the Agency denied Dunton's Protest on jurisdictional grounds, it would not have sustained Dunton's Protest on its merits if it were otherwise timely.

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Sincerely,

A handwritten signature in cursive script, appearing to read "Ronald Corsi".

Ronald Corsi  
Chief, National Acquisition Division

Enclosures: Exhibits 1-14

CC:

Mr. Scott Dunton

Mr. F. Roy Dunton

119 E. Andy Devine Avenue

Kingman, Arizona 86401